S.B.CRIMINAL MISC.PETITION NO.651/2006
IN
S.B.CRIMINAL APPEAL NO.69/2004
(Ratan Lal Vs. State of Raj.)

Date of order :: 20.09.2006

HON'BLE MR. JUSTICE KRISHAN KUMAR ACHARYA

Mr.Ramesh Purohit-petitioner/appellant.
Mr.S.N.Tiwari, PP for the State.

This petition under Sec. 482 of the Code of Criminal procedure has been filed on behalf the accused-Ratan Lal, who is presently lodged in Central Jail, Udaipur, for his transfer from Central Jail, Udaipur to the District Jail, Pratapgarh till the final disposal of the appeal.

It has been stated in the petition that the mother of the petitioner is an old lady of 85 years and suffering from heart disease because of which she is facing great difficulty in her day to day movement. The age and condition of the petitioner's mother, makes it impossible for her to go and meet him in the the Central Jail, Udaipur. It has also been stated that Wife of the petitioner, being Pardanasin lady, is also unable to come Udaipur to meet the petitioner. Further, it has been stated that the petitioner has already remained in District Jail,

Pratapgarh as an under-trial prisoner for a period of more than two years and there was no complaint of any misbehavior against the petitioner. Learned counsel for the petitioner states that wife of the petitioner is also seriously sick and the sentence of accused-petitioner Ratan Lal was temporarily suspended by this Court vide order dated 10.7.2006 on the ground of ailment of his wife. Thereafter, during the period of his temporary suspension, he himself fell ill and therefore, the said order of suspending the sentence of accused-petitioner was extended for one month. Therefore, learned counsel for the appellant prays that looking to all the facts and circumstances of the case, petitioner may be ordered to be transferred from Central Jail, Udaipur to District Jail, Prtapgarh. In support of his case, learned counsel for the petitioner has cited before me the judgments of this Court passed in (1) Attar Singh Vs. The State of Rajasthan; 1995 Cr.L.R. (Raj.)1 (2) Sher Singh Vs. State of Raj; 1999(2) RCC 823 and (3) Jalal Khan Vs. State of Rajasthan; 2005 (3) R.Cr.D. 170 (Raj.).

Learned Public prosecutor has produced before me the report sent by Superintendent, Central Jail, Udaipur wherein it is stated that as per circular No.1766/D/16988-17085 dated 22.4.93, the District Jail comes in the category of 'B' in which only the convict who were sentenced for three years

imprisonment, are to be kept and the convicts who are convicted for more than three years imprisonment are to be kept only in the Central Jail. Therefore, learned Public Public prosecutor states that since the petitioner has been convicted for 14 years rigorous imprisonment, hence, he may not be transferred from the Central Jail, Udaipur to the District Jail, Pratapgarh.

I have considered the submissions advanced by learned counsel for the parties and carefully perused the judgments cited before me. In the case of Attar Singh Vs. The State of Rajasthan (supra), the same matter came before this court. In that case, accused was convicted for the offence under Section 302 of the Ranveer Penal Code as well as Section 69 of the Arms Act and was undergoing for life imprisonment. Initially, he was put to the District Jail, Jhunjhunu and from there he was transferred to the Central Jail, Jaipur and lastly, he was transferred to the Central Jail, Udaipur. It was stated by the accused in that case that he was a resident of Jhunjhunu district and his parents were old. The distance from Jhunjhunu to Udaipur is long and the financial position of the family of the petitioner makes it impossible for his wife, children, parents and other close relatives to go and meet him in the the Central Jail, Udaipur. This Court

held that ofcourse the rules do not permit the transfer of a life convict from the Central Jail, Udaipur to the District Jail, Jhunjhunu, but on humanitarian consideration and taking into consideration the facts and circumstances of that case, the petitioner-convict was transferred from the Central Jail, Udaipur to the District Jail, Jhunjhunu. The same view has been taken in the case of Sher Singh Vs. State of Raj. (supra). While sitting in Division Bench this Court held that merely because a person who has been convicted for a particular offence especially in the cases where the period of incarceration is more than 10 years would not be itself debar a convict from maintaining his family ties which is essential for moral and mental health of a convict for which it is desirable that he should be permitted to be nearer to his family. In that case also, the appellant was transferred from Central Jail, Jaipur to District Jail, Alwar on the ground that the accused had an aged mother and two minor children. In the case of Jalal Khan Vs. State of Raj. (supra), this Court held that accused was convicted for the offence under Section 8/21 of the NDPS Act and had been sentenced to 10 years imprisonment. In his family there was no one except his old ailing mother who had crossed 80 years of age and she was also a heart patient. It was stated by the accused in that case that if he remains in

Central Jail, Udaipur then it will not be possible for his old ailing mother to visit him there. Hence, this Court directed to transfer the accused from Central Jail, Udaipur to District Jail, Prtapgarh. In the present case in hand, the family of the petitioner which consist of his mother, wife and the son, are residing at Gandher which is very far from the Udaipur. The mother of the petitioner, aged 85, is suffering from heart disease and cannot travel long distance to meet her son. The wife of the petitioner is also seriously sick and on that ground also, the sentence of the petitioner was suspended temporarily by this Court on 10.7.2006. While combining all the circumstances and looking to the judgments of this Court cited herein-above, on the humanitarian ground and in the interest of justice, I deem it just and proper to transfer the accused petitioner from Central Jail, Udaipur to District Jail, Pratapgarh for a period of one year.

Accordingly, this miscellaneous petition under Section 482 Cr.P.C. filed by the petitioner convict Ratan Lal S/o Ram Lal is partly allowed and the respondent is directed to get the petitioner transferred from the Central Jail, Udaipur to the District Jail, Pratapgarh for a period of one year. The further extension shall be considered thereafter.

Copy of this order be also sent to the superintendent, Central Jail, Udaipur for immediate compliance.

(KRISHAN KUMAR ACHARYA), J.

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